

## **THE MIGRATORY BIRD TREATY ACT AND THE BALD AND GOLDEN EAGLE PROTECTION ACT - CONSERVATION**

1. Environmental stewardship is vitally important to the accomplishment of the White Sands Missile Range (WSMR) test and evaluation mission. "America's Range" fully supports and implements the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA). Many actions taking place on WSMR have the potential to "take" migratory birds, including raptors (birds of prey, such as hawks, eagles, and owls). All directors, tenants, Range customers, civilian employees, military personnel, and contractors must ensure that actions which may result in the "taking" of a migratory bird are properly identified and addressed in the environmental coordination document associated with project planning, execution, and follow up. Addressing bird protection measures in this manner is not only consistent with the Commander's Guidance on National Environmental Policy Act (NEPA) Compliance, but will ensure they become part of the administrative record for all proposed actions, are properly coordinated with the U.S. Fish and Wildlife Service, and appropriate permits are obtained.
2. All but three species of wild birds are protected in the United States under federal and/or state laws. Pursuant to the MBTA it is illegal to "take" any migratory bird without a federal permit, excluding only three non-native species: the rock dove (pigeon), English (house) sparrow, and starling. The BGEPA extends additional protections to bald and golden eagles.
3. Under both the MBTA and BGEPA, "take" includes "pursue, shoot, shoot at, wound, kill, capture, collect, molest, or disturb..." or to attempt any of these actions. Additionally, these acts make it illegal to "take," transport, or possess any part of a protected bird without a permit, including the feathers, feet, beak, nest, eggs, etc. Any action at WSMR that may "take" birds must be coordinated with the U.S. Fish and Wildlife Service prior to implementation. The White Sands Environment and Safety Directorate is responsible for assisting activities in accomplishing this coordination.
4. Among the most preventable potential sources of "take" are improperly designed power lines and poles that electrocute large birds and the intentional, unpermitted nest destruction to remedy nuisance bird concerns. To alleviate these problems, it is White Sands policy to:
  - Design all new power lines, poles, and other power distribution facilities in accordance with the guidance provided in the publication entitled, Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 1996 (Avian Power Line Committee (APLIC), Edison Electric Institute/Raptor Research Foundation, Washington, D.C.). Any

exception to this guidance must be coordinated through the Environment and Safety Directorate with the U.S. Fish and Wildlife Service which may delay project execution.

- Promptly report and remediate any power lines and poles found to electrocute birds in accordance with the above standards. Plans for these actions will be coordinated with the Environment and Safety Directorate prior to implementation.
- Incorporate the above standards in all proposed actions involving power lines, including line and pole modifications, maintenance and repair activities, and pole removal. Plans for these actions will be coordinated with the Environment and Safety Directorate prior to implementation.
- Identify power lines and poles that have or are suspected to have electrocuted birds to the Environment and Safety Directorate for record-keeping and reporting purposes in accordance with Army policy. Also, report the location of carcasses of birds suspected of having been electrocuted to the Environment and Safety Directorate for action.
- Refrain from any action involving the removal or disturbance of bird nests until the Environment and Safety Directorate has been consulted to determine if a federal permit is required.

5. The Environment and Safety Directorate has copies of the cited publication for reference and can provide the source information for those who wish to obtain individual copies. Where permits are required, the proponent of the action applying for the permit will provide the necessary information to the Environment and Safety Directorate. The proponent is responsible for ensuring compliance with all permit conditions.

6. For additional information regarding this guidance or for further assistance in integrating environmental stewardship in your activities, contact the Directorate of Environment and Safety, at 678-2224/8731.

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